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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,907	10/21/2005	Jim Wahl	5550-32	8228
62574	7590	01/17/2008		
Jason H. Vick Sheridan Ross, PC Suite # 1200 1560 Broadway Denver, CO 80202			EXAMINER TIEU, BINH KIEN	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 01/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/553,907	<b>Applicant(s)</b> WAHL ET AL.	
	<b>Examiner</b> /BINH K. TIEU/	<b>Art Unit</b> 2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/3/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7-12, and 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Sewell et al. (Pub. No.: US 2002/0165952).

**Regarding claim 1**, Sewell et al. (“Sewell”) teaches a telecommunications information management system comprising:

a diagnostic information collection module configured to obtain raw diagnostic information from one or more modems utilizing a high-layer protocol (see paragraphs [0042] and [0043]);

a diagnostic information interpretation module configured to analyze the raw diagnostic information (paragraphs [0052] and [0053]); and

a data search and correlation module configured perform searches of the raw diagnostic information and analyzed diagnostic information (paragraph [0066]).

Regarding claim 2, note paragraph [0062].

Regarding claims 3-4, note paragraphs [0065] and [0066].

Regarding claim 7, note paragraph [0063] or [0064].

Regarding claim 8, note paragraphs [0061]-[0062].

Regarding claim 9, note figure 5, paragraphs [0052]-[0055].

**Regarding claim 10**, Sewell teaches a telecommunications information management method comprising:

obtaining raw diagnostic information from one or more modems utilizing a high-layer protocol (see paragraphs [0042] and [0043]);

analyzing the raw diagnostic information (paragraphs [0052] and [0053]);

storing the raw diagnostic information and the analyzed diagnostic information (paragraphs [0039]); and

searching of the raw diagnostic information and analyzed diagnostic information (paragraph [0066]).

Regarding claim 11, note paragraph [0062].

Regarding claim 12, note paragraphs [0065] and [0066].

Regarding claim 15, note paragraph [0063] or [0064].

Regarding claim 16, note paragraphs [0061]-[0062].

Regarding claim 17, note figure 5, paragraphs [0052]-[0055].

**Regarding claim 18**, Sewell teaches a telecommunications information management system comprising:

means for obtaining raw diagnostic information from one or more modems utilizing a high-layer protocol (see paragraphs [0042] and [0043]);

means for analyzing the raw diagnostic information (paragraphs [0052] and [0053]);

means for storing the raw diagnostic information and the analyzed diagnostic information (paragraphs [0039]); and

means for searching of the raw diagnostic information and analyzed diagnostic information (paragraph [0066]).

Regarding claim 19, note paragraphs [0065] and [0066].

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 5-6, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sewell et al. (Pub. No.: US 2002/0165952) in view of Wookey et al. (US. Pat. #: 6,237,114).

Regarding claims 5 and 13, Sewell teaches all subject matter as claimed above, except for the features of the one or modems are one or more of a modem with internal diagnostic capabilities and a modem adapted to communicate with a personal computer having diagnostic modules. However, Wookey et al. ("Wookey") teaches a system and method for evaluating monitored computer systems as shown in figures 1A and 1B. Computer system 10 (in figure 1A) has a plurality of modems (modem pool) (101) for receiving diagnostic data from monitored computers system 102 (see col.3, lines 39-41). The computers system 102 has a plurality of personal computers 104-112 each is installed with diagnostic tests 116-124. the system 102 further comprises a modem 114 for transmitting the raw data from the each of the plurality of computers 104-112 (see col.3, lines 41-57) for a purpose of transmitting raw data to an alert processor in order to diagnosing and correcting problems indicated by the raw data.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the features of the one or modems are one or more of a modem with internal diagnostic capabilities and a modem adapted to communicate with a personal computer having diagnostic modules, as taught by Wookey, into view of Sewell in order to transmit the raw data and to diagnose and correct problems indicated by the raw data.

Regarding claims 6 and 14, Wookey further teaches limitations of the claim in col.16, line 60 through col.17, line 33.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh K. Tieu whose telephone number is (571) 272-7510 and E-mail address: BINH.TIEU@USPTO.GOV.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (571) 272-7499 and **IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL CUSTOMER SERVICE FOR THE SUBSTITUTIONS OR COPIES.**

Any response to this action should be mailed to:  
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the FAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/BINH K. TIEU/**  
Primary Examiner  
Technology Division 2614

Date: January 2008